

REMARKS

This Amendment and Response to Office Action is made in response to the examiner's office action dated January 27, 2005. No new matter is added by these amendments.

The examiner's comments have been carefully considered, and are addressed in turn in the following paragraphs.

Drawings

By the foregoing amendment, Applicant has replaced the illustration as originally filed with new FIGs. 1 through 4. The new photographs depict the tree, blossoms, leaves, and fruit of the claimed plant. No new matter is added by the submission of the new photographs.

Objection to Disclosure under 37 CFR 1.163

The specification has been objected to as failing to provide a full and complete disclosure of the plant and its distinguishing characteristics. By the foregoing amendment, Applicant has provided additional information to more fully describe the claimed plant, and to more clearly distinguish it from other known cultivars. The following paragraphs correspond with the examiner's specific comments.

A. Comparison to parents and other known varieties: The specification has been amended to identify the parents of 'S 6606.' Applicant no longer has access to the parent varieties, and thus cannot offer a comparison between the parents and the claimed variety. Applicant therefore requests that the requirement for a comparison of the claimed plant to its parents be waived. Applicant has amended the specification to include a brief comparison of the claimed plant to the most similar plant of which applicant is aware, 'S 6816', for which a plant

patent application is currently pending (Ser. No. 10/642,442).

B. Cultivar name: For purposes of the U.S. plant patent application, the cultivar name of the claimed variety is 'S 6606.' No amendment is made in regard to the cultivar name.

For the information of the examiner, a Plant Breeders Rights Application for the claimed plant was filed in France in 1999 under the name 'Mesembrine' (Ser. No. PBR 1002188). The present application for 'S 6606' claims priority of prior provisional application Ser. No. 60/404,079, filed August 15, 2002. 'S 6606' was not made publicly available anywhere in the world prior to August 15, 2001.

C. Botanical description: The specification has been amended to provide additional botanical information regarding the claimed plant, as requested by the examiner.

D. Growing location: The specification has been amended to include the growing location of the described plant, as suggested by the examiner.

E. Asexual reproduction: The specification has been amended to include information regarding the asexual reproduction of the described plant, as requested by the examiner.

F. Color references: The specification has been amended to include references to a recognized color chart, as requested by the examiner.

Claim Rejection under 35 U.S.C. §112

By the foregoing amendment, Applicant has provided a clear and complete botanical description of the claimed plant to support the claim. Applicant believes that the rejection under 35 U.S.C. §112 has been overcome, and respectfully requests that the rejection be withdrawn.

Claim Rejection under 35 U.S.C. §102

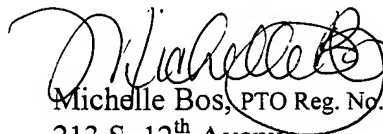
The claim has been rejected under 35 U.S.C. §102(e) as being anticipated by USPP 12,438 to Zaiger et al. for 'Earlihoney.' Applicant asserts that the claimed plant is clearly distinguishable from the 'Earlihoney' variety, particularly by its fruit. 'Earlihoney' bears medium to large globose fruit, while 'S 6606' bears small, very flat (broad oblate) fruit. By the foregoing amendment, Applicant has further distinguished the claimed plant over Zaiger et al., USPP 12,438. Applicant believes that the rejection under 35 U.S.C. §102(e) has been overcome, and respectfully requests that the rejection be withdrawn.

CONCLUSION

Any questions or comments relating to these proposed amendments may be directed to applicant's representative who signs below.

Respectfully Submitted,

STRATTON BALLEW PLLC

A handwritten signature in cursive script, appearing to read "Michelle Bos", is written over the printed name and address.

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In the drawings:

Please cancel the original figure as filed.

Please enter new FIGs. 1 through 4, submitted herewith in duplicate.